



The Compliance Connection

Regulatory News for Virginia Mortgage and Consumer Finance Companies
State Corporation Commission -- Bureau of Financial Institutions

The Compliance Connection is published quarterly and is part of the Bureau's efforts to improve communication with the companies we regulate. It is distributed to Virginia mortgage, consumer finance and industrial loan association licensees, and other interested parties. It is the licensee's responsibility as a Virginia mortgage licensee to read this newsletter and to be familiar with the positions and interpretations stated herein.

Suggestions and comments concerning the newsletter or its contents should be addressed to the Bureau at P.O. Box 640, Richmond, Virginia 23218-0640 or via e-mail at: nancy.walker@scc.virginia.gov.

Special thanks to Susan Hancock, Jon Orne, Jane Owen and Todd Rose for their contributions to this issue!

FTC Enforces Safeguards Rule

(The following is based on a press release issued by the Federal Trade Commission on November 16, 2004.)

In previous issues, the Bureau provided licensees with information about the Gramm-Leach-Bliley (GLB) Safeguards Rule so that licensees could take appropriate action to ensure compliance with the Rule. The Safeguards Rule is enforced by the Federal Trade Commission (FTC) for non-depository financial institutions.

The Safeguards Rule, which implements the security requirements of the GLB Act, requires financial institutions to have reasonable policies and procedures in place to ensure the security and confidentiality of customer information. The "financial institutions" covered by the Rule include not only lenders and other traditional financial institutions, but also companies providing many other types of financial products and services to customers. These institutions include, for example, payday lenders, check-cashing businesses, professional tax preparers, automobile dealers engaged in financing or leasing, electronic funds transfer networks, mortgage brokers, consumer finance companies, credit counselors, real estate settlement companies, and retailers that issue credit cards to customers.

The Rule is intended to be flexible to accommodate the wide range of entities

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Public Records and the SCC

The State Corporation Commission (the "Commission") has made it easier for the public to understand how to request and obtain public records from the Commission. Recently a "how to" guide was added to the Commission's Web site at www.scc.virginia.gov/commission/pub_docs.htm.

The Code of Virginia provides that the records of the Commission are open to public examination to the same extent as the records and files of the courts of the Commonwealth. The Commission's overall policy regarding public access to its records is to promote an increased awareness by all persons of the Commission's activities.

Nevertheless, not all Commission documents are public documents. For instance, the Bureau of Financial Institutions maintains some documents that are generally not subject to public disclosure such as examination reports and records containing personal financial information. For additional information regarding the confidentiality of Bureau records, please review the Bureau's Confidentiality Policy at www.scc.virginia.gov/division/banking/bfi_confid.pdf.

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Broker Errors Can Be Costly

The Bureau's position concerning the collection of broker fees without a signed written agreement was initially included in a February 5, 1993 memorandum, which was sent to all mortgage licensees. This memo was reprinted in several issues of this newsletter. Despite this, numerous violations of this nature continue to be cited.



Section 6.1-422B(4) of the Code of Virginia prohibits mortgage brokers from receiving compensation from the borrower other than that specified in a written agreement signed by the borrower. As many of you know, the Bureau's examiners review a broker's contract for compensation (i.e., broker or financing agreement) executed by the borrower to determine the maximum broker fees that can permissibly be collected by a broker. Broker fees are those charged to the borrower by the broker and retained by the broker as compensation. Documented third-party fees are not included in the term "broker fees." As stated in the 1993 memorandum, obtaining the borrower's signature on the agreement or contract for compensation after the violation occurs is NOT acceptable as a corrective measure, and an overcharge violation will be cited on the Report of Examination, which requires reimbursement. Likewise, disclosure of such fees on the Good Faith Estimate or HUD-1 Settlement Statement does not constitute compliance with §6.1-422B(4) since these documents are not agreements.

FTC Enforces Safeguards Rule (continued from page 1)

covered by the GLB Act, as well as the wide range of circumstances companies face in securing customer information. Accordingly, the Rule requires financial institutions to implement a written information security program that is appropriate to the company's size and complexity, the nature and scope of its activities, and the sensitivity of the customer information it handles. As part of its program, each financial institution must also (1) assign one or more employees to oversee the program; (2) conduct a risk assessment; (3) put safeguards in place to control the risks identified in the assessment and regularly test and monitor them; (4) require service providers, by written contract, to protect customer's personal information; and (5) periodically update its security program.



The FTC conducted a nationwide sweep of automobile dealers and mortgage companies to determine the level of compliance with the Rule. The results showed many of the companies targeted were in compliance with the Rule, but it also showed "significant failures to comply" by two mortgage companies involved in the FTC's sweep. In a press release dated November 16, 2004, the FTC explains

that one of the companies, a mortgage broker, "...failed to implement safeguards to protect its customers' names, social security numbers, credit histories, bank account numbers, income tax returns, and other sensitive financial information..." and "...failed to train its employees on information security issues; oversee its loan officers' handling of customer information; and monitor its computer network for vulnerabilities." The

second company was cited for failing to oversee the security practices of its service providers and of its loan officers working from remote locations. The FTC states both companies "...failed to comply with the Rule's basic requirements, including that they assess the risks to sensitive customer information and implement safeguards to control these risks."

Please review your policies to make sure they meet the requirements of the Safeguards Rule. Information about this Rule and the November 16, 2004 press release can be obtained from the FTC's website: www.ftc.gov. We suggest you contact an attorney or compliance specialist familiar with the Gramm-Leach-Bliley Act and the Safeguards Rule if you have questions.



SCC E-mail and Web Site Address Changes

In January 2005, the SCC Internet address will change from www.state.va.us/scc to www.scc.virginia.gov, and the Bureau page will be located at www.scc.virginia.gov/division/banking/index. All SCC E-mail addresses will change to **firstname.lastname@scc.virginia.gov** (ex: **jane.doe@scc.virginia.gov**). The address formats conform to the standard being used by most state governments throughout the U.S. The old Web and E-mail addresses will work for an as yet undetermined time.

Annual Reports Due

Mortgage lenders and/or brokers and consumer finance companies licensed by the Bureau of Financial Institutions are each required to file an Annual Report with the Bureau. These reports pertain to the business conducted and should not be confused with the corporate annual report (filed with the Office of the Clerk) required of corporations generally. The annual report forms were mailed to licensees in December 2004; however, copies of each type of annual report form are also available on the Bureau's Web site at: www.state.va.us/scc/division/banking/vareport. As of January 1, 2005, the address will be: www.scc.virginia.gov/division/banking/vareport.

The due dates for the annual reports are as follows:
Mortgage Annual Report - due by **March 1, 2005**;
Consumer Finance Annual Report - due by **April 1, 2005**.

Common tips for filing annual reports

- 1) Strictly follow the instructions for each report. If you need assistance, call the individuals listed below.
- 2) File the report in duplicate.
- 3) Make sure the report is complete, signed by a senior officer of the licensee, and notarized.
- 4) Do not send money with the report. Assessments will be mailed to mortgage licensees by April 25, 2005 and to consumer finance licensees by May 1, 2005, with payment due within 30 days after those dates.

- 5) Do not report business that is not conducted pursuant to the license granted, unless specifically requested. (For example, mortgage licensees should report only loans made to individuals who will use the proceeds primarily for personal, family or household purposes and which loans are secured by a deed of trust on any interest in one to four family, residential, owner-occupied property located in the Commonwealth).
- 6) Attach a financial report (audited, if available) for the licensee, including a balance sheet and income statement. (Each consumer finance licensee should also include a financial report, audited if available, for its parent company.) If audited reports are not available by the deadline, indicate with the submission of the annual report the date that the audited financial statement is expected to be filed.
- 7) Submit the report to the Bureau by the deadline. The statutes governing the filing of the reports do not provide for extensions of time. Failure to file the annual report by the due date may result in regulatory action (fines or revocation of license).

Annual reports are processed by the Bureau's Corporate Structure and Research Section. For questions regarding annual reports filed by mortgage companies, contact Robert Mednikov at (804) 371-9692. For questions regarding annual reports filed by consumer finance companies, contact Karen Heede at (804) 371-9372. General questions may also be directed to (804) 371-9690.

License Update

The following is a list of companies that have surrendered their licenses, had their licenses revoked, had an application denied, or been fined by the Commission since August 15, 2004. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of November 15, 2004. Call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission. A list of current mortgage licensees is available on our Web site at www.scc.virginia.gov/banking/mortgagelist.htm.

Mortgage Licenses Surrendered

MB – 1510 KBM Mortgage Group, Inc. – 8/16/04
MLB – 872 Loren W. Robinson, Inc. d/b/a Nationwide Mortgage Group – 8/17/04
MB – 2201 Progressive Finance Corp. d/b/a PFC Mortgage Group – 9/7/04
MLB – 453 CBSK Financial Group, Inc. d/b/a American Home Loans – 9/8/04
MB – 2076 PayRite Mortgage, LLC – 9/13/04
ML – 340 Aurora Loan Services, Inc. – 9/17/04
MLB – 748 All Fund, Inc. d/b/a All Fund Mortgage – 9/21/04
MB – 1398 The Knox Financial Group, LLC – 9/24/04
MB – 465 FSC Corporation – 9/27/04
MB – 2408 Coast Banc LLC – 9/30/04
MLB – 686 Sidus Financial, LLC – 10/01/04
MB – 1125 Olde South Mortgage Corporation – 10/05/04
MLB – 535 BNC Mortgage, Inc. – 10/5/04
MB – 2120 Loan Warehouse Corp. – 10/7/04
MB – 2122 NewVision Mortgage, Inc. – 10/11/04
MB – 1767 Center Street Mortgage, LLC – 10/14/04
ML – 511 Keystone Mortgage and Investment Company – 10/20/04
MLB – 612 Virginia Closing Corp. – SURRENDERED LENDER AUTHORITY ONLY 10/20/04 – now licensed as MB - 2770
MB – 1791 Dung Dinh Tran d/b/a US Mortgage & Investment Services – 10/22/04
MB – 1812 Maple Mortgage, Incorporated – 10/27/04
MB – 1811 Village Mortgage of NC, Inc. (used in VA by Village Mortgage, Inc.) – 10/27/04
MLB – 890 Axis Point LLC – 10/27/04
MLB – 809 PGNF Home Lending Corp. – 10/29/04
MB – 2379 Sun Mortgage Funding, LLC d/b/a Approved 1st Mortgage – 11/04/04
MB – 2241 RTG Financial Corporation – 11/08/04
MB – 1814 Southeast Funding, Inc. d/b/a Chesapeake Bay Mortgage Funding – 11/10/04
MLB – 882 Mortgage Virginia, LLC – 11/15/04
MLB – 775 Nationwide Financial Corp. – SURRENDERED LENDER AUTHORITY ONLY 11/15/04 – now licensed as MB - 2802



Mortgage Licenses Denied

MB – 2614 Net Branch Capital, LLC – 9/28/04

Mortgage Licenses Revoked

The following companies licenses were revoked by the Commission for their failure to continuously maintain the required surety bond, pursuant to §6.1-413 of the Code of Virginia:

MB – 1766 Performance Funding, LLC – 9/15/04
MB – 2031 Main Street Mortgage, LLC – 10/8/04
MLB – 319 Capitol Financial Services, Inc. d/b/a Capitol Home Mortgage – 11/2/04
MB – 2074 BancNet, LLC – 11/2/04

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Mortgage Penalties Paid

MLB – 660 Dana Capital Group, Inc. – entered into a settlement on 10/7/04 and paid \$25,000 for various violations of the Mortgage Lender and Broker Act

The following licensees entered into settlements on 11/10/04 for failing to file the annual report by March 1, 2004, as required by §6.1-418 of the Code of Virginia:

ML – 530 Allied Mortgage Group, Inc. d/b/a Advantage One Financial - \$500
ML – 551 American Fidelity Inc. - \$500
MLB – 243 AmeriFirst Home Improvement Finance Co. (formerly Kenwood Associates, Inc.) - \$800
MB – 1539 Approved Mortgage Capital, LLC - \$800
MB – 1543 Atlantic Coast Mortgage Group, Inc. - \$500
MB – 1262 Barksdale Business Group, Inc. d/b/a Barksdale Loan Consultants - \$500
MB – 1230 Colonial Atlantic Mortgage Inc. - \$800
MB – 1389 Condor Financial Group Incorporated - \$500
MB – 1954 Cyber Mortgage, Inc. d/b/a Global Mortgage - \$500
MLB – 372 Dream House Mortgage Corporation - \$500
MB – 1900 Financial Advantage Funding Corporation - \$800
MB – 1171 1st Choice Mortgage Corp. - \$500
MB – 882 First American Mortgage Services, Inc. - \$500
MLB – 694 Genisys Financial Corp. - \$500
MLB – 872 Loren W. Robinson d/b/a Nationwide Mortgage Group - \$800
ML – 397 Master Financial Inc. - \$800
MB – 1836 Mobility Financial LLC d/b/a Partnersfirst Mortgage - \$500
MB – 708 Money Organization of Mid-Atlantic, Inc. - \$800
MB – 1838 Mortgage.close.com - \$500
MLB – 26 Prosperity Mortgage Corporation - \$500
ML – 423 United California Systems International, Inc. - \$800
MLB – 1083 USA Home Loans, Inc. - \$500
MB – 1564 Village Mortgage Corporation - \$500
MLB – 98 WMC Mortgage Corp. d/b/a American Loan Centers - \$500



Other Penalties Paid

Bing Sing D. Wang – paid \$1,000 settlement on 9/29/04 for failure to obtain Commission approval prior to acquiring membership interests in Lifetime Financial Services, LLC (MB - 2170), in violation of §6.1-416.1 of the Code of Virginia



IMPORTANT COMMISSION TELEPHONE NUMBERS

Consumer Finance and Mortgage Examinations(804) 371-9701

Licensing (annual reports, applications, name changes, relocations).....(804) 371-9690

Consumer Complaints.....(804) 371-9705

Banks and Savings Institutions.....(804) 371-9704

Corporate Information – Clerk's Office.....(804) 371-9733

FAX Number for the Bureau of Financial Institutions.....(804) 371-9416



Bureau of Financial Institutions
1300 E. Main Street, Suite 800
Richmond, Virginia 23219

IMPORTANT REGULATORY INFORMATION ENCLOSED!